

**RESOLUTION NO. 18/19-49**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE MOUNT  
DIABLO UNIFIED SCHOOL DISTRICT CERTIFYING TO THE  
BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY ALL  
PROCEEDINGS IN THE NOVEMBER 6, 2018 GENERAL  
OBLIGATION BOND ELECTION ON MEASURE J, ESTABLISHING  
OVERSIGHT COMMITTEE AND ADOPTING BYLAWS**

**WHEREAS**, the Board of Trustees of the Mount Diablo Unified School District (the "District") adopted its Resolution No. 18/19-1 on July 23, 2018, ordering a general obligation bond election which was held in the District on November 6, 2018 (the "Bond Election"); and

**WHEREAS**, the Bond Election was duly held and conducted for the purpose of voting on Measure J, which approved the issuance of general obligation bonds of the District in the aggregate principal amount of \$150,000,000 (the "Measure J Bonds"); and

**WHEREAS**, the Board of Trustees of the District has received a canvass and statement of results of the election from Contra Costa County as set forth in Exhibit A attached hereto, from which it appears that more than 55% of the votes cast at the Bond Election were in favor of authorizing the Measure J Bonds; and

**WHEREAS**, the Board of Trustees is required at this time to certify the election results in accordance with Section 15274 of the Education Code; and

**WHEREAS**, the Board is required by Proposition 39 and Section 15278 of the Education Code to establish a citizen oversight committee for the Measure J Bonds;

**NOW, THEREFORE, THE BOARD OF TRUSTEES THE MOUNT DIABLO UNIFIED SCHOOL DISTRICT DOES HEREBY FIND, DETERMINE AND CERTIFY AS FOLLOWS:**

**Section 1. Entry of Results in Board Minutes.** The Board hereby orders that entry be made upon the minutes of this meeting that Measure J, being the ballot measure authorizing the issuance of the Measure J Bonds, was approved by more than 55% of the votes cast at the Bond Election.

**Section 2. Finding of Compliance.** The Board hereby finds and determines that all proceedings of the District in connection with the Bond Election have been held, conducted and accomplished according to law.

**Section 3. Establishment of Oversight Committee.** Pursuant to Proposition 39 and Section 15278 of the Education Code, the Board hereby establishes an Oversight Committee for the Proposition J Bonds. The Oversight Committee shall perform all of the duties imposed on it under Sections 15278 through 15282, inclusive, of the Education Code with respect to the Measure J Bonds. The Board hereby approves the bylaws for the Oversight Committee in the form attached hereto as Exhibit B.

**Section 4. Delivery of this Resolution.** The Clerk of the Board is hereby requested to deliver a copy of this Resolution to the Contra Costa County Superintendent of Schools with a request that, under Education Code Section 15274, the County Superintendent deliver a copy of this Resolution, including the Certificate of Election Results attached hereto as Exhibit A, to the Clerk of the Board Supervisors of Contra Costa County.

**Section 5. Effective Date.** This Resolution shall take effect on and after its adoption.

\* \* \* \* \*

I hereby certify that the foregoing Resolution was passed and adopted by the Board of Trustees of the Mount Diablo Unified School District at a regular meeting thereof duly held on March 25, 2019.

Adopted by the following votes:

AYES:

NOES:

ABSENT:

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Clerk of the Board of Trustees  
of the Mount Diablo Unified School District

EXHIBIT A

CERTIFICATE OF COUNTY CLERK AS TO THE RESULTS OF THE CANVASS OF THE  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
MEASURE J  
NOVEMBER 6, 2018 GENERAL ELECTION

State of California            )  
  )  
County of Contra Costa        )       ss.

I, JOSEPH E. CANCIAMILLA, County Clerk of Contra Costa County, State of California, do hereby certify that I did canvass the returns of the votes cast at the November 6, 2018, **Mt. Diablo Unified School District, Measure J**, Election. I further certify that the statement of the votes cast, to which this certificate is attached, shows the whole number of votes cast in said County, and the whole number of votes cast for and against the measure in said County and in each respective precinct therein, and that the totals of the respective columns and the totals as shown for and against the measure are full, true and correct.

WITNESS my hand and official seal this 3rd day of December, 2018.



JOSEPH E. CANCIAMILLA, County Clerk

By Rosa Mena  
Rosa Mena, Deputy Clerk

CONTRA COSTA COUNTY  
STATEWIDE GENERAL ELECTION  
TUESDAY, NOVEMBER 6, 2018  
Final Official

Precincts Reported: 174 of 174 (100.00%)

Registered Voters: 101,544 of 146,463 (69.33%)

Ballots Cast: 606,804

**J - MT. DIABLO UNIFIED SCHOOL DISTRICT - 55% (Vote for 1)**

Precincts Reported: 174 of 174 (100.00%)

		Vote By Mail	Election Day	Total	
Times Cast		67,816	33,189	101,005 / 146,463	68.96%
Candidate	Party	Vote By Mail	Election Day	Total	
Yes		45,909	22,533	68,442	70.31%
No		19,937	8,971	28,908	29.69%
Total Votes		65,846	31,504	97,350	
		Vote By Mail	Election Day	Total	

## EXHIBIT B

### CITIZEN'S OVERSIGHT COMMITTEE BYLAWS

**Section 1. Committee Established.** The voters of the Mount Diablo Unified School District (the "District") have previously approved the issuance by the District of its general obligation bonds (the "Bonds") at an election held on November 6, 2018 approving Measure J which authorized \$150,000,000 aggregate principal amount of general obligation bonds of the District ("Measure J").

The Bond election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State ("Proposition 39"). Pursuant to Section 15278 of the Education Code, the Board of Trustees of the District (the "Board") has adopted its Resolution on March 25, 2019, establishing a citizens oversight committee for Measure J (the "Committee"). The Committee shall have the duties and rights set forth in these Bylaws. The Committee does not have legal capacity independent from the District.

**Section 2. Purposes.** The purposes of the Committee are set forth in Proposition 39, and these Bylaws are specifically made subject to the applicable provisions of Proposition 39 as to the duties and rights of the Committee. As used herein, the term "Bond Proceeds" means the proceeds of the Bonds which are issued by the District from time to time pursuant to Measure J. The Committee shall confine itself specifically to Bond Proceeds generated under Measure J. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review.

**Section 3. Duties.** To carry out its stated purposes, the Committee shall perform duties to include the following:

3.1 Inform the Public. The Committee shall inform the public concerning the District's expenditure of Bond Proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the consensus view of the Committee.

3.2 Review Expenditures. The Committee shall review expenditure reports produced by the District to ensure that (a) Bond Proceeds were expended only for the purposes set forth in Measure J; and (b) no Bond Proceeds were used for teacher or administrative salaries or other operating expenses in compliance with Attorney General Opinion 04-110, issued on November 9, 2004.

3.3 Annual Report. The Committee shall present to the Board, in public session, an annual written report which shall include the following:

- (a) a statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution;

- (b) a summary of the Committee's proceedings and activities for the preceding year; and
- (c) such other duties as may be assigned by the Board.

**3.4. Duties of the Board/Superintendent.** Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (a) approval of construction contracts;
- (b) approval of construction change orders;
- (c) appropriation of construction funds;
- (d) handling of legal matters;
- (e) approval of construction plans and schedules;
- (f) approval of deferred maintenance plans; and
- (g) approval of any matters relating to the issuance and the sale of the Bonds.

If and to the extent directed by the Board in its sole discretion, the Committee shall perform the following types of activities:

- (a) review of contracts;
- (b) review of change orders;
- (c) review of project management procedures and provide recommendations for improvement;
- (d) provide recommendations on expenditures of the Bond Proceeds;
- (e) provide recommendations on handling of legal matters;
- (f) review of project plans and schedules;
- (g) review of deferred maintenance plans; and
- (h) provide recommendations relating to the issuance and sale of the Bonds.

**3.5 Measure J Projects Only.** In recognition of the fact that the Committee is charged with overseeing the expenditure of Bond Proceeds, the Board has not charged the Committee with responsibility for:

- (a) projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without Bond Proceeds shall be outside the authority of the Committee;
- (b) the establishment of priorities and order of construction for the Bond projects, which shall be made by the Board in its sole discretion;
- (c) the selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion;
- (d) the approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be determined by the Board in its sole discretion;
- (e) the selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee; and
- (f) the appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Proposition 39.

However, the Board may direct the Committee to review and provide recommendations on any of the above.

#### **Section 4. Authorized Activities.**

4.1 Authorized Activities. In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

- (a) receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Article XIII A of the California Constitution;
- (b) inspect school facilities and grounds for which Bond Proceeds have been or will be expended, in accordance with any access procedure established by the Superintendent of the District;
- (c) review copies of deferred maintenance plans developed by the District;



- (d) review efforts by the District to maximize Bond Proceeds by implementing various cost-saving measures; and
- (e) other activities as directed by the Board.

## **Section 5. Membership.**

5.1. Number. The Committee shall consist of a minimum of seven members appointed by the Board from a list of candidates submitting written applications, and based on criteria established by Proposition 39, to wit:

- One member shall be a parent or guardian of a child enrolled in the District.
- One member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization, such as the P.T.A. or school site council.
- One member active in a business organization representing the business community located in the District.
- One member active in a senior citizen's organization.
- One member active in a bona-fide taxpayers association.
- Two members of the community at-large.
- Any other members as appointed by the Board.

5.2 Qualification Standards. To be a qualified to serve as a member on the Committee, such person must be at least 18 years of age. Preference will be given to those who reside within the District's geographic boundary, in accordance with Government Code Section 1020. The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3. Ethics; Conflicts of Interest. Members of the Committee are not subject to Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and are not required to complete the Form 700. However, each member shall comply with the Committee Ethics Policy attached to these Bylaws.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two years, commencing on the date of the first meeting of the Committee. No member may serve more than three consecutive terms. At the Committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one-year term and the remaining members for an initial two-year term.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District shall advertise in local newspapers, on its website or by any other appropriate means, as well as solicit appropriate local groups for



applications; (b) the Superintendent will review the applications; and (c) the Superintendent will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee and shall use reasonable efforts to do so within 90 days. Members whose terms have expired may continue to serve on the Committee until their successor has been appointed.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District; (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual; and (c) the Committee shall have the right to request and receive copies of any public records relating to projects which are funded from Measure J.

## **Section 6. Meetings of the Committee.**

6.1 Regular Meetings. The Committee shall meet at least once a year.

6.2 Location. All meetings shall be held within the Mount Diablo Unified School District, located in Contra Costa County, California.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business.

## **Section 7. District Support.**

7.1 Technical and Administrative Assistance. The District shall provide to the Committee necessary technical and administrative assistance as follows:

- (a) preparing and posting public notices as required by the *Ralph M. Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the Board of Trustees;
- (b) provision of a meeting room, including any necessary audio/visual equipment;
- (c) preparation and copies of any documentary meeting materials, such as agendas and reports; and
- (d) retention of all Committee records, and providing convenient public access to such records on an the District's

Internet website. All records shall be posted on the website in a timely manner maintained by the District.

7.2 Attendance at Meetings. District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditure of Bond Proceeds.

**Section 8. Reports.** In addition to the Annual Report required in Section 3.2, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such reports shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

**Section 9. Officers.** The Committee shall elect a Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year and may be re-elected by vote of a majority of the members of the Committee.

**Section 10. Amendment of Bylaws.** Any amendment to these Bylaws shall be approved by a majority vote of the Board of the Trustees of the District.

**Section 11. Termination.** The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report which reflects the final accounting of the expenditure of all Bond Proceeds.

## **CITIZENS' BOND OVERSIGHT COMMITTEE ETHICS POLICY STATEMENT**

This Ethics Policy Statement provides general guidelines for Committee members to follow in carrying out their roles. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

### **POLICY**

**CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds or (2) any construction project which will benefit the committee member's outside employment, business, or provide a financial benefit to an immediate family member, such as a spouse, child or parent.

**OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. A Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. A Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

**COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Mount Diablo Unified School District.

**COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.